

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

JOHN THOMAS MILLER,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION NO.:
) 4:17-CV-180-VEH
 JEFFERSON DUNN, et al)
)
 Defendants.)

SCHEDULING ORDER

The court has before it the **November 10, 2017**, AMENDED report of the parties' planning meeting under Rule 26(f).

I. Pretrial Deadlines

A. Discovery Deadlines

All discovery must be commenced in time to be completed by **August 31, 2018**. Disclosure of expert witnesses – including a complete report under Rule 26(a)(2)(B) from any specially retained or employed expert – is due from plaintiff(s) by **July 12, 2018**, and from defendant(s) by **August 13, 2018**. Disclosure of the final lists of trial witnesses and exhibits under Rule 26(a)(3) must be filed and served by plaintiff(s) **thirty days prior to trial** and by the defendant(s) **thirty days prior to trial**. The 14-day period for objections set forth in Rule 26(a)(3) shall apply, except

the list of objections should be served but not filed. The parties must meet and confer in an effort to resolve the objections before filing any objections to the evidence. (See Court's standard Final Pretrial Order, referenced in Section D below).

Evidence not timely objected to shall, upon motion duly made during trial, stand admitted in evidence.

Non-expert witnesses and exhibits not so disclosed and listed will not be permitted at trial except for impeachment or rebuttal, and no person may testify whose identity, being subject to disclosure or timely requested in discovery, was not disclosed in time to be deposed or to permit the substance of his knowledge and opinions to be ascertained.

Any requests for extension of any deadlines must be filed at least **five days prior to that deadline** to be considered. **Good cause must be shown for the extension of any deadline.** Good cause includes a showing of what discovery, etc., has already been completed and precisely why the deadlines cannot be met.

B. Deadlines to Amend Pleadings

Plaintiff(s) may amend pleadings and/or join additional parties, in accordance with Fed. R. Civ. P. 15, until **June 29, 2018**. Defendant(s) may amend pleadings and/or join additional parties, in accordance with Fed. R. Civ. P. 15, until **July 18, 2018**.

C. Pretrial

This case will be set for a final pretrial conference approximately 90 days after the reply brief is filed regarding a motion for summary judgment, or if no motion for summary judgment is filed, approximately 60 days after the dispositive motions deadline. The pretrial conference will be held in sixth floor chambers of the undersigned in the Hugo L. Black U.S. Courthouse in Birmingham, Alabama. The case should be ready for trial approximately 60 days after the pretrial conference date. A trial date will be set at the pretrial conference.

D. Final Pretrial Order

The parties shall submit to chambers, by e-mail, at hopkins_chambers@alnd.uscourts.gov, the final draft of the court's joint proposed Pretrial Order, **no later than seven days prior to the pretrial conference** and shall comply with all requirements and deadlines set forth in such pretrial order. The Court's Pretrial Order may be accessed at the Court's website at www.alnd.uscourts.gov; Judicial Officers; Virginia Emerson Hopkins; Final Pretrial Order.

Except as expressly modified by the above, the stipulations, limitations, deadlines and other agreements set forth in the report of the parties shall apply in this case.

E. Other Settings

Two weeks after the discovery deadline, **Counsel shall file with the court a Joint Status Report.** As part of the status report, parties should consider the prospects for settlement of this matter and shall report their efforts to settle the matter. If any party is of the opinion that a court-conducted settlement conference would be helpful, that party may request by separate writing that the court conduct such a conference as a part of or separate from the scheduled final pretrial conference. Such party should be prepared to suggest a reasonable basis for consideration of settlement and should be prepared to make a reasonable offer or acceptance.

Also, as part of the status report, the parties shall notify the court whether they are agreeable to submitting this case to mediation conducted by a mediator from the panel of neutrals.

II. Discovery Disputes

No motions concerning discovery matters should be filed until counsel have exhausted all efforts to resolve the dispute among themselves. Every discovery motion must affirmatively state all efforts to resolve the disputed matter; failure to attempt to resolve the dispute without court intervention or to affirmatively so state will result in the automatic denial of the motion.

Discovery disputes will occasionally be referred to a magistrate judge for

handling. Because decisions concerning discovery rest largely within the discretion of the judge, objections to a magistrate's ruling on a discovery matter should rarely be made and will rarely be granted absent a clear showing that the decision was clearly erroneous or contrary to law. See 28 USC § 636.

III. Submission of Motions

All potentially dispositive motions must be filed by **October 1, 2018**. Any motion for summary judgment filed in this action, and all responses, must comply with all requirements, including response times, of Appendix II to the ALND Uniform Initial Order, found on this Court's website at www.alnd.uscourts.gov/hopkins/hopkinspage.htm. Counsel shall refrain from filing any motion for summary judgment where a reasonable person would recognize that genuine issues of material fact exist.

All other motions must be filed promptly after the movant becomes aware of facts indicating the need to file a motion. All briefs as well as pleadings should be filed with the Clerk of the Court. No courtesy copies of pleadings will be accepted, but the court **requires courtesy copies of briefs and evidentiary submissions to be delivered to the clerk's office (not to chambers) marked as judge's courtesy copy.**

The court shall promptly dispose of nondispositive motions. Without prior notice, it may summarily dispose of perfunctory and/or other motions where the facts

and law appear to be clear. Therefore, when served with a motion, any party who wishes to oppose it should immediately telephone the court's chambers and so advise.

If the court enters a briefing schedule, the court will generally decide such motions within thirty days of the submission date. The court encourages counsel to contact the judge's chambers to verify that a motion is scheduled for a determination if counsel has not received a decision on the motion within **forty-five days** of its submission date.

DONE and **ORDERED** this 15th day of November, 2017.



VIRGINIA EMERSON HOPKINS
United States District Judge